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The Limits to Maritime Security Collaboration in the Indo-Pacific Region

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Abstract

This paper takes a somewhat negative approach to the goal of building collaboration to address transnational maritime security issues in the Indo-Pacific. It does not make the case that seeking improvements in cooperation is unreasonable, unworkable or simply not worthwhile - only that there exist sound reasons why strict limits to maritime security cooperation pertain in many circumstances. Some of those reasons may be due to temporary contexts, such as short-term political factors. Others may relate to problems inherent in the particular issue in question, and yet others may be deeply structural and, indeed, intractable. My argument therefore is structured in the following way. First, it addresses the intractable, underlying problems that make progress in maritime security cooperation so difficult. Second, it briefly addresses certain transnational maritime security issues, explaining why cooperation to deal with some threats is much easier than for others.

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The limits to maritime security collaboration in the Indo-Pacific region

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Indo-Pacific Maritime Security: Challenges & Cooperation

The limits to maritime security collaboration in the Indo-Pacific region

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This paper takes a somewhat negative approach to the goal of building collaboration to address transnational maritime security issues in the Indo-Pacific. It does not make the case that seeking improvements in cooperation is unreasonable, unworkable or simply not worthwhile¹ – only that there exist sound reasons why strict limits to maritime security cooperation pertain in many circumstances. Some of those reasons may be due to temporary contexts, such as short-term political factors. Others may relate to problems inherent in the particular issue in question, and yet others may be deeply structural and, indeed, intractable. My argument therefore is structured in the following way. First, it addresses the intractable, underlying problems that make progress in maritime security cooperation so difficult. Second, it briefly addresses certain transnational maritime security issues, explaining why cooperation to deal with some threats is much easier than for others.

Structural limits

The following sections deal in detail with what I term structural constraints to better maritime security collaboration in the Indo-Pacific area. These structural limitations involve three interrelated factors: geography, coastal state concerns with control over waters under their jurisdiction, and political and strategic contexts. The problems are ‘structural’ in that they either are inherent and insurmountable, or of an intractable nature, making resolution unlikely, if not necessarily inconceivable. Indeed, these types of framing difficulties for the regional maritime security environment have been described in terms of the ‘wicked problem’ descriptor.²

Geography

Physical geography can create potential political headaches in different parts of the Indo-Pacific, particularly once political and legal frameworks are laid atop physical features. However, physical characteristics can of themselves create difficulties. This is generally the case with East Asia, but particularly so with respect to archipelagic Southeast Asia. In East Asia, the island chains that lie adjacent to the Asian mainland and semi-enclose the string of connected seas from the Sea of Okhotsk in the northeast, through to the Andaman Sea on the south-

western, Indian Ocean, side of peninsular Southeast Asia, create inherent complications for assuring maritime safety and security. The fact that these semi-enclosed seas are shared by numerous adjacent or nearby states, are used by many others, and involve valuable marine resources, actual or assumed, greatly complicates the practice of maritime security. A similar problem afflicts the Persian Gulf, for example, where several states must share one enclosed sea space with a single narrow entry/exit point: the straits of Hormuz.

The geographical context of archipelagic Southeast Asia, consisting as it does of many thousands of islands, necessarily makes attempts at securing good order at sea a daunting task for authorities at the best of times. The sheer extent of the eastern archipelago and the large number of its islands makes it the most complex maritime geography on the planet, and thus extremely difficult to surveil and police. For the same reasons, the area is a natural haven for criminals, terrorists, and other sea users who behave contrary to the interests of good order at sea. It would be incorrect to state that the area is ungoverned, and certainly it would be unsound to suggest that the waters of the eastern archipelago are ungovernable; yet it must be recognized that good order is devilishly difficult to impose within this overarching constraint of such complex maritime geography.

Once political factors are added to physical geography, the prospects for maritime security collaboration often are made considerably worse. The competitive, sometimes acquisitive, nature of state behaviour, which invariably stresses the pursuit of the ‘national interest,’ conditions the international politics of the seas and oceans just as it does for terrestrial matters, and increasingly also for the environments of international airspace, outer space and cyberspace. One of the most politically daunting challenges to manage if states are to better cooperate at sea is that of disputed claims to maritime territory, from significant islands to tiny, often physically trivial, rocks and atolls, many of which may remain under water at high tide. The Indo-Pacific is replete with maritime territorial disputes, from the Persian Gulf to the mid-Indian Ocean Chagos archipelago, to the Southwest Pacific.

However, in respect to maritime territorial disputes it is East Asia which again dominates matters in the Indo-Pacific.

¹ The author, in fact, has long been involved with organizing and delivering regional maritime security cooperation and capacity-building programmes for different agencies of the Australian government, and understands both the potential and actual value of such collaborative activities.

² See Sam Bateman, “Solving the ‘Wicked Problems’ of Maritime Security: Are Regional Forums up to the Task?” *Contemporary Southeast Asia* Vol. 33, No. 1 (2011), pp. 1-28.

The overlay of politics upon physical geography has created many of the world's most intractable island disputes, the foremost of which is the mainland Chinese claim to the self-governing island of Taiwan. Taiwan is unique among island disputes in that it involves a heavily populated, successful and prosperous de facto independent state. Most other territorial disputes in maritime East Asia instead involve either very small islands or rocky features that remain unoccupied, or similar features that are minimally garrisoned by the security forces of one of the claimant states. The most noteworthy of these disputes include the southern Kuriles/Northern Territories (Russia-Japan); Tokdo/Takeshima (South Korea-Japan); the Senkakus/Diaoyutai (Japan-Taiwan-China); the Pratas Islands (Taiwan-China); the Paracels (China-Vietnam-Taiwan); Scarborough Shoal (China-Philippines-Taiwan); and the Spratly archipelago (China-Vietnam-Taiwan-Philippines-Malaysia-Brunei). In each case the dominant or controlling claimant has been listed first. The identification of a dominant claimant (i.e. the claimant with physical control of relevant features) has been rather more contestable in the case of the infamous Spratly disputes in the South China Sea, but Beijing's assertions, expansion, including island construction, and militarisation throughout the archipelago in recent years make it clearer than ever that China seeks a form of regional control. Indeed, China's actions throughout East Asian seas have made it both more important and, at the same time, often more difficult, to engage Beijing in many aspects of maritime security collaboration.

Regional geography in East Asia also greatly complicates coastal state jurisdiction over adjacent sea areas. These are rights under international law generated by sovereignty over land features. This involves overlaying the legal framework of the United Nations Convention on the Law of the Sea (Law of the Sea Convention or UNCLOS) upon the political and physical aspects of the region's maritime geography. Even leaving aside the further complicating impact of territorial disputes upon maritime jurisdiction, the basic political geography of East Asia has dealt regional states a difficult hand to play in claiming jurisdiction. The 'narrow seas' character of the region's semi-enclosed seas means that its coastal states will more often than not have to compromise with their neighbours in order to determine jurisdiction over adjacent waters. For example, at no point does the East China Sea exceed 400 nautical miles in breadth. Yet, as China and Japan both claim the maximum allowable exclusive economic zone (EEZ) of 200 nautical miles as measured from their territorial sea baselines, their claims unavoidably overlap. Such jurisdictional disputes are rendered even more delicate when territorial disputes are factored into maritime jurisdictional claims. In this way, East China Sea claims are impacted by the effect that Taiwan, with its highly emotive disputed status, and the disputed Senkaku Islands, also impose upon jurisdictional claims.

Similarly complicated, if perhaps not so inherently dangerous, maritime jurisdictional disputes exist elsewhere in East Asia, placing further constraints upon prospects for improved maritime security collaboration. The potential for already fraught maritime jurisdictional claims in the South China Sea to be negatively affected by more-expansive claims derived from disputed territories is a spectre that haunts the prospects for successful maritime delimitation in the area. Currently, the extent of maritime jurisdictional claims generated by occupied or claimed territorial features under dispute remains uncertain and contested, both with respect to interpretations of international law and individual claimant state positions. Collaboration at sea is made inherently difficult if jurisdiction is disputed or uncertain, or if boundaries remain undelimited.

Coastal state control

In addition to the problem of disputed sovereignty over maritime territory, many coastal states in the Indo-Pacific region continue to assert rights over adjacent waters that can be deemed to significantly exceed the potential rights to jurisdiction granted by the Law of the Sea Convention.³ This phenomenon has commonly been termed one of 'creeping' coastal state jurisdiction, and is particularly common among geopolitically dissatisfied states such as China, and many developing states. The problem of excessive claims to maritime jurisdiction is a global one, but the complex maritime geography of East Asia, in particular, as outlined above, makes the problem more acute in East Asian waters. The problem to some extent reflects the preoccupation of some developing states with a post-colonial maximalist view of sovereignty assertion. Such assertions at sea may reflect a lack of confidence in their capacity to actually protect existing maritime rights. This may be a particular concern for archipelagic states such as Indonesia and the Philippines, and fellow straits state Malaysia. Concerns, probably unfounded, over sovereignty erosion, is a leading reason why neither Indonesia nor Malaysia have become parties to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP). Nevertheless, such states can understandably feel particularly vulnerable to a range of threats due to the high volume of maritime traffic plying waters under their sovereignty and employing passage rights such as transit passage in straits used for international navigation,⁴ archipelagic sea lanes passage in archipelagic waters,⁵ or innocent passage in the territorial sea.⁶

³ For the standard, albeit American, view on the extent of this problem, see J. Ashley Roach and Robert W. Smith, *Excessive Maritime Claims*, 3rd ed. (Leiden: Martinus Nijhoff, 2012).

⁴ *United Nations Convention on the Law of the Sea*, 1982 (hereafter "UNCLOS"), arts. 37-44.

⁵ *Ibid.*, arts. 53-54.

⁶ *Ibid.*, arts. 17-26.

They also may simply be attempting to push for rights long hoped for but unmet during UNCLOS negotiations. There may be a view among some states that, if they continue to assert such coveted rights and are unchallenged by other states, over time such rights may become accepted state practice and part of customary international law. Yet other states may simply be chancing their luck to see what they can get away with.

It is possible that, over time, some states may be less inclined to make such assertions as their maritime capabilities grow, although the opposite trend has been apparent in China's case. Further, the attitudes of some states with respect to sovereignty assertion is particularly heavily ingrained. Indonesia is a clear case in point. It is not at all certain whether any amount of local capacity improvement or confidence-building could change attitudes that are intimately linked to Indonesia's archipelagic conception of national unity.⁷

It seems clear that China also seems to be pursuing a maximalist agenda at sea with its territorial and jurisdictional claims, and its ambition to be able to exert control over adjacent seas within, at a minimum, the so-called first island chain.⁸ In China's case, while Beijing may well believe in the righteousness of its claims, its rather more ambitious quest for regional control reflects its broader strategic and geopolitical goals for East Asia.

The law of the sea, as with international law in general, is a slowly evolving beast. Since the Law of the Sea Convention was agreed in 1982, numerous post-UNCLOS international legal instruments have been negotiated, such as the UN Fish Stocks Agreement of 1995, and the development of new environmental, safety and security regulations for shipping under the auspices of the International Maritime Organization. Many of these instruments further develop or modify aspects of the Law of the Sea Convention, including slowly regulating certain activities on the high seas.⁹ The basic principles of maritime jurisdiction based on specific UNCLOS zones, however, remain essentially unchanged. The Law of the Sea Convention took literally decades to negotiate, involving three international conferences and inevitable compromises between Third World coastal states, which desired ever-greater rights, and maritime powers and user states, which preferred to maintain many traditional freedoms. The resulting compromise established a delicate balance. That balance, and thus the Convention itself, is potentially placed at risk by the raft of excessive claims now being exerted in Asia.

The disputes that increasingly occur between coastal states claiming greater control over adjacent waters, and maritime powers seeking to sustain hard-won freedoms, are often referred to as a problem of 'interpretation' of the Law of the Sea Convention generated by its alleged ambiguity. The most contentious aspect in the Indo-Pacific relates to military operations in the exclusive economic zone.¹⁰ While there is intentional ambiguity in many

parts of the Convention, a consequence of the difficult negotiation process, this issue can also be exaggerated. The problem of differing 'interpretations' in the context of military operations in the EEZ is simply a euphemism for a more fundamental difficulty. The problem, rather, is one that is better characterised as that of certain states wilfully choosing to misinterpret the Convention simply because they don't like the implications of specific provisions. State parties to the Law of the Sea Convention, however, are unable to pick and choose which pieces of the Convention they wish to adhere to: it is a single, complete document, with interrelated provisions that can only be treated in their entirety.

In fact, the UNCLOS provisions are relatively clear. There are no conceivable grounds by which a coastal state can interfere with the military operations of other states in its exclusive economic zone unless such activities undermine the very specific rights of UNCLOS Part V on the EEZ: that is, rights directly related to exploration and exploitation of marine resources, other economic uses of the zone, establishment or use of artificial islands and installations, marine scientific research, or protection and preservation of the marine environment.¹¹ Otherwise, all the high seas freedoms of "navigation and overflight and the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines ..." apply also in the exclusive economic zone.¹² Other high seas provisions (articles 88-115) also apply in the EEZ.¹³ Much is often made of the provision that, in exercising their EEZ rights, states "shall have due regard to the rights of the coastal State."¹⁴ But those making that point commonly avoid noting that this duty is reciprocal: the UNCLOS also provides that "... the coastal State shall have due regard to the rights and duties of other States ..." in the EEZ.¹⁵

⁷ See Dino Patti Djalal, *The Geopolitics of Indonesia's Maritime Territorial Policy* (Jakarta: Centre for Strategic and International Studies, 1996).

⁸ On the island chain concept see Andrew S. Erickson and Joel Wuthnow, "Barriers, Springboards and Benchmarks: China Conceptualizes the Pacific 'Island Chains,'" *The China Quarterly* Vol. 225 (March 2016), pp. 1-22.

⁹ See, for example, Robin Warner, "The High Seas Regime: A Model of Self-regulation?" and "Developing New Regulatory Paradigms for the Conservation and Sustainable Use of Marine Biodiversity in Areas beyond National Jurisdiction," both in *Routledge Handbook of Maritime Regulation and Enforcement*, ed. Robin Warner and Stuart Kaye (London: Routledge, 2016), pp. 16-26 and 394-408, respectively.

¹⁰ For extensive analysis and various viewpoints, see the two special editions of the journal *Marine Policy*, Vol. 28 (January 2004) and Vol. 29 (March 2005).

¹¹ UNCLOS art. 56(1).

¹² *Ibid.*, art. 58(1).

¹³ *Ibid.*, art. 58(2).

¹⁴ *Ibid.*, art. 58(3).

¹⁵ *Ibid.*, art. 56(2).

In both cases, those rights and duties relate directly and explicitly to the very narrow, mostly economic, purpose of the EEZ regime; that is, those limited types of activities for which the regime was designed, noted above.

Therefore, unless such coastal state economic or environmental rights are being hindered by a military operation, there are no grounds for the coastal state to interfere with the operation. Chinese efforts to prevent or interfere with American military operations in East Asian waters have been the most egregious examples of this type of interference in the Indo-Pacific region,¹⁶ but not the only ones. Indeed, there are many Indo-Pacific states that assert restrictions on the navigational freedoms of warships and other naval vessels, and not just in the exclusive economic zone.¹⁷ China has also been increasingly aggressive in its assertions in the airspace above its claimed EEZs. Beijing is on even weaker ground in the air than it is on the water, as has been made abundantly clear: “The airspace above the EEZ is not part of the EEZ and aircraft of all states have freedom of overflight and therefore the right to undertake military operations.”¹⁸

Incidents that occur in and around disputed features, such as those in the South China Sea, may be particularly problematic, in that the sovereignty status of the features and the consequent status of adjacent waters are unresolved. Leaving aside debates on whether or not any of the disputed features are actually eligible under the UNCLOS to generate maritime zones of any consequence, Beijing’s maximalist agenda to be able to control, at a minimum, the entire disputed area encompassed within its infamous nine-dash line claim,¹⁹ if not potentially the entire sea space within the first island chain, creates an obvious challenge not just to the Law of the Sea, but extant international law and good order, generally. Cooperation even to combat common concerns with transnational maritime security threats under these circumstances obviously becomes far more problematic. This point leads directly into the next section, dealing with the underlying strategic factors that may limit the prospects for better collaboration.

Political and strategic contexts

The negative impacts of China’s quest for control affect not just its rival claimant states, but all states with interests in the region or that depend upon good order at sea, directly or indirectly, for their continued security, prosperity and wellbeing. The fact that most states are trade-dependent, and thus need to interact with the large and growing economies of East Asia, means that most states have an interest in the maritime security situation in East Asia and throughout the Indo-Pacific, no matter where on the globe they are situated. Improving maritime security cooperation to protect that common interest under this weight of geopolitical threat to the current regional order, though, has become far more difficult.

This problem becomes even more apparent when one considers that the principal instruments for securing order at sea, navies, and, to a lesser extent, coast guards, are the very forces that China is seeking to either exclude from the East Asian littoral region, or at least greatly limit their activities. This is particularly the case with respect to those maritime security forces that are part of the U.S. alliance system, or belong to other likeminded states that take the task of good order at sea seriously. China’s actions to restrict U.S. and other foreign military presence in East Asian seas are not limited to peacetime challenges to freedoms of navigation and overflight. In fact, the forces of China’s People’s Liberation Army have been developed over the past two decades specifically for the purpose of deterring and defending against American and allied interventions throughout the East Asian littoral in response to situations in which China seeks to enforce control by military aggression or other coercive means. The popular Pentagon phraseology of the moment to describe China’s strategy is that of anti-access/area denial (A2/AD).

It is worth noting also that important institutions such as the Law of the Sea Convention do not apply to certain waters only, but are global in scope. Any concerted attempt to undermine such international rules and norms in East Asia does not just have regional consequences: the impact would be to damage the global liberal order.

While imperfect, any breakdown of the UNCLOS or other institutions of global order could be catastrophic, resulting in a truly chaotic and conflict-ridden maritime environment.

A strong nerve thus is required by all states heavily invested in maintaining a liberal international order to deter or prevent states such as China from further undermining that system, including at sea. It is for just such a purpose that states such as Australia and Japan have been deepening their strategic relationship in concert with their common ally, the United States.

¹⁶ See, for example, Raul (Pete) Pedrozo, “The Bull in the China Shop: Raising Tensions in the Asia-Pacific Region” and “Military Activities in the Exclusive Economic Zone: East Asia Focus,” both in *International Law Studies*, Vol. 90 (2014), pp. 66-100 and 514-543, respectively.

¹⁷ See Stuart Kaye, *Freedom of Navigation in the Indo-Pacific Region*, Papers in Australian Maritime Affairs No. 22 (Canberra: Sea Power Centre – Australia, 2008).

¹⁸ Martin Tsamenyi and Barry Snushall, “The Legal Dimension of Maritime Military Operations,” in *Positioning Navies for the Future*, ed. Jack McCaffrie (Sydney: Halstead Press, 2006), p. 116.

¹⁹ For the Chinese position see China’s responses to other states’ submissions to the Commission on the Limits of the Continental Shelf: People’s Republic of China, Letter to the Secretary-General of the United Nations, Doc. CML/17/2009, 7 May 2009; and Letter to the Secretary-General of the United Nations, Doc. CML/18/2009, 7 May 2009. See also Zhiguo Gao and Bing Bing Jia, “The Nine-dash Line in the South China Sea: History, Status, and Implications,” *The American Journal of International Law*, Vol. 107, No. 1 (January 2013), pp. 98-124.

China is not the sole challenger to international order, but in the Indo-Pacific it lies at the centre of great power strategic competition at sea, whether its competitor is Japan, the United States or India. Nonetheless, the Indo-Pacific is replete with other maritime conflicts and disputes, and is home to many cases of enmity or historical mistrust not involving Beijing. None of these political-strategic factors necessarily preclude states from engaging in cooperation for maritime security, but they can seriously hamper those efforts.

Transnational maritime security challenges

Cooperation to deal with transnational maritime security challenges is clearly far easier to achieve in some cases than others. This may be due to the type of threat, the particular states involved, or the location of the problem. Cooperation on certain issues is relatively simple to deal with. For example, international cooperation in the search for the missing Malaysian Airlines flight MH370 in the southern Indian Ocean has been relatively easy, at least politically, if not necessarily operationally. Even if the cause of the crash is disputed, the international imperative to find the wreckage is not controversial, and no state's maritime jurisdiction seems to be included in the search area. Even in the case of the crash of Indonesia AirAsia flight QZ8501/AWQ8501 into the Java Sea in December 2014, multiple countries rendered assistance to Indonesia in the search and recovery operations. Thus, even in the archipelagic waters of a state highly conscious of its interests in protecting its sovereign integrity, it was not controversial to invite or allow foreign navies to assist Indonesian authorities. Search and rescue, and recovery operations are probably the least-sensitive issues to deal with when it comes to international collaboration.

To take another example, however – that of piracy and armed robbery at sea – demonstrates both possibilities and limitations for collaboration. It is important to remember that, while the two activities may be functionally equivalent, legally they are quite distinct. Piracy is an international crime with universal jurisdiction that occurs on the high seas.²⁰ As a result of UNCLOS article 58(2), which applies certain high seas provisions to the EEZ, the law of piracy also applies within the exclusive economic zone. As we have witnessed in the extensive multinational efforts to suppress Somali piracy in the Indian Ocean, collaboration is not only possible, but has been successful, albeit at great financial cost to sustain the naval effort.

However, armed robbery at sea, which is a common but non-legal term to describe piratical acts that occur in waters under the sovereignty of the coastal state, where the international law of piracy doesn't apply, is altogether a more problematic issue for maritime security collaboration. In Southeast Asia, most, albeit not all, piratical incidents occur within zones of coastal state sovereignty: internal waters, archipelagic waters and territorial seas.²¹

This means that the coastal state itself is responsible for enforcement actions to protect vessels in those zones from piratical attack, presuming it has the capacity and/or the appropriate legislative framework in place to deal with the threat. Given that most of these incidents occur in the waters of states that jealously guard their sovereignty, there are obvious limits to cooperation. Indeed, few states anywhere are likely to be willing to invite foreign enforcement vessels into waters under their sovereignty to assist in such maritime security operations.

The cause of collaboration is not altogether lost, however: there are many ways in which states can assist afflicted coastal states, including by sharing information,²² or by building coastal state capacity, from training personnel to supplying vessels or other equipment and infrastructure. The ReCAAP Information Sharing Centre (ISC) in Singapore is a leading regional example of international cooperation to improve the sharing of maritime security information.

An even more difficult transnational problem is that of illegal, unreported and unregulated (IUU) fishing. This difficulty in part stems from the fact that fish are inherently transnational: they don't respect international boundaries even if such borders have been agreed. Obviously, in areas where waters are in dispute or boundaries have yet to be delimited, enforcement actions are inherently compromised, and fish stocks suffer in the absence of sound governance. The problem also relates to the sad fact that demand far outweighs the available supply of marine-capture fish, and fishing capacity and fishing technology developments far outweigh the sustainability of fish stocks. Further, IUU fishing is compounded by the fact that the international legal framework to combat the problem is highly constrained,²³ meaning that coastal states often are forced to deal with highly organised transnational criminal groups or toughminded fishermen from a starting point of relative legal disadvantage.

²⁰ UNCLOS arts. 101 and 105.

²¹ For details, including locations, on piratical incidents throughout Asia, see the regular reports prepared by the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) Information Sharing Centre, available at <http://www.recaap.org/>.

²² I have discussed the information sharing issue extensively in Chris Rahman, *The Global Maritime Partnership Initiative: Implications for the Royal Australian Navy*, Papers in Australian Maritime Affairs No. 24 (Canberra: Sea Power Centre – Australia, 2008), pp. 35-49.

²³ The standard text on IUU fishing is Mary Ann Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries: The International Legal Framework to Combat Illegal, Unreported and Unregulated Fishing* (Leiden: Martinus Nijhoff, 2010); and see also Mary Ann Palma-Robles, "Fisheries Enforcement and the Concepts of Compliance and Monitoring, Control and Surveillance," in *Routledge Handbook of Maritime Regulation and Enforcement*, pp. 139-160.

Operationally, combating IUU fishing can also be extremely difficult, especially across vast areas of ocean, such as in the Southwest Pacific, where small island states depend on assistance for aerial surveillance. Surveillance assistance is only one part of Australia's Pacific Patrol Boat Program to help the Pacific island states with fisheries enforcement, a leading example of regional maritime security collaboration.

In narrow sea areas, however, the problems are often more of a political nature, and not just with respect to unresolved jurisdiction. It is the case in Southeast Asia, for instance, that many of the worst perpetrators of IUU fishing may be one's near neighbours.²⁴ This creates political, legal and operational headaches for states trying to enforce their waters and protect the sustainability of fish stocks. The problem is worsened when waters are disputed. For example, Indonesia's claimed South China Sea EEZ overlaps with China's nine-dash line. There have been at least four separate incidents in this area, in which Indonesian fisheries patrol boats have arrested Chinese fishing boats, only to be forced by much larger Chinese civilian enforcement vessels to release the alleged Chinese IUU boats. The most recent of these incidents occurred in the same area on 19 March 2016.²⁵

The future of regional collaboration

This conclusion does not set out to establish all the possible avenues for future maritime security collaboration in the Indo-Pacific region. Anyone who has been involved with the field for a number of years will understand that maritime security cooperation, despite its limits, has grown substantially over the past 20 years. Many significant achievements have been hard won, such as Japan's important ReCAAP initiative, the only official regional organisation for dealing with maritime security issues. Even if its remit is limited to information-sharing only about certain classes of threats, the establishment of the Information Sharing Centre has been a major step forward for cooperation to combat piracy and armed robbery at sea. That it includes China, which, as pointed out above, is a leading source of instability at sea, and an opponent of Japanese maritime security initiatives, is a telling indication that there are some issues of common interest that may transcend even underlying strategic tensions. Japan, Australia, the United States, Singapore and India are all leading efforts to boost collaboration for maritime security in the Indo-Pacific. Further and deeper cooperation will no doubt evolve, as it must.

However, future cooperation can only occur within strict constraints, some of which have been outlined in this essay. Many of those structural limitations will mean that cooperation can only occur in certain circumstances or over certain issues.

The route to better-governed seas, especially in East Asia, but more broadly throughout the Indo-Pacific, will be a choppy one.

And, if China, in particular, continues on its path of challenging the regional order, collaboration to combat transnational security problems at sea will become even more difficult. Stronger defence alliances and coalitions to protect the existing liberal order will likely be a necessary step, then, in order to address transnational maritime security issues.

Alliance-strengthening efforts such as those being pursued by the United States with Japan, Australia and the Philippines, and U.S. coalition-building activities, such as the Southeast Asia Maritime Security Initiative (MSI), are at the very least implicitly aimed at countering the instability at sea being generated by Chinese activities. In the case of the Maritime Security Initiative, first announced by U.S. Secretary of Defense Ash Carter at the May 2015 Shangri-La Dialogue in Singapore, Washington will commit US\$425 million over five years to maritime security capacity-building for South China Sea littoral states, focused on surveillance and maritime situational awareness capabilities. The initial funding priority for the United States is the Philippines, but Indonesia, Malaysia, Thailand and Vietnam also are expected to benefit from MSI projects.²⁶ Similarly, Indian maritime security capacity-building in Indian Ocean island states has the dual role of improving national and regional maritime security and countering Chinese political influence.

Efforts of these sorts to counter Chinese influence, while at the same time building regional and sub-regional maritime security capacity, are not contradictory in purpose, but they do complicate attempts at wider, inclusive, non-coalition maritime cooperation to combat transnational threats at sea.²⁷ Encouraging Chinese participation, and that of other sceptical or cautious states, can be all the more difficult due to the underlying strategic contexts for coalition-building behaviour. Nonetheless, the ReCAAP example is proof that inclusiveness under particular circumstances, at least involving China, is still possible.

²⁴ See, for example, the interview with Indonesia's forthright Minister of Marine Affairs and Fisheries, Susi Pudjiastuti, "RI, Others Stand Up to Bullying by Big Countries: Minister Susi," The Jakarta Post (15 April 2016), p. 3.

²⁵ Tama Salim, "RI-China Sea Spat Continues," The Jakarta Post (22 March 2016), p. 1.

²⁶ Megan Eckstein, "The Philippines at Forefront of New Pentagon Maritime Security Initiative," U.S. Naval Institute news (18 April 2016), available at <https://news.usni.org/2016/04/18/the-philippines-at-forefront-of-new-pentagon-maritime-security-initiative>.

²⁷ I have developed a framework for naval and maritime cooperation based on alliance, coalition and non-coalition levels of cooperation in Chris Rahman, *Naval Cooperation and Coalition Building in Southeast Asia and the Southwest Pacific: Status and Prospect*, Sea Power Centre and Centre for Maritime Policy Working Paper No. 7 (Canberra: Royal Australian Navy Sea Power Centre, October 2001).

These points lead to a conclusion that Indo-Pacific maritime security cooperation needs to continue to be pursued on multiple paths. The proliferation of forums and various institutional arrangements for collaboration may sometimes be thought of as introducing unnecessary redundancy and repetition into the regional maritime security cooperation equation. Yet it is possible that a multiplicity of options for cooperation can be beneficial in circumstances in which certain states may be wary of some avenues for collaboration but not others. It may well be the case that Track II unofficial fora have little to offer now that so much official-level activity takes place. But redundancy of effort at the official level, across alliance, coalition and non-coalition levels of cooperation, and between military and civilian sectors, offers the best opportunities over the long run to both strengthen regional deterrence against adventurism at sea, and deepen networks of more politically neutral collaboration to deal with transnational maritime security problems.